access to and egress from the plaintiffs' premises, *held,* such user of highway is unreasonable and constitutes a nuisance which the plaintiff can restrain. *Lyon Sons & Co.* v. *Gulliver* [1914] I Ch. 631.

The right of the public in the highway consists in the privilege of passage. *Hickman* v. *Maisey,* [1901], 1 Q. B. 752; *Burr* v. *Stevens,* 90 Me. 500. Travelers may within reason, however, stop temporarily on the highway. *Smethurst* v. *Barton Square Independent Cong. Church,* 148 Mass. 261; but not unreasonably, or to such an extent as to interfere with other travelers or to prevent the free use of the highway. *Turner* v. *Holtzman,* 54 Md. 148; *Lippincott* v. *Lasher,* 44 N. J. Eq. 120. And a trader cannot make his shop-window so attractive as to bring crowds round it in such a way as to interfere with the people having the easiest and most direct and commodious access to the next shop. *Wagstaff* v *Edison Bell Phonograph Corp.,* 10 Times L. R. 80. Search reveals no American case upon facts similar to the principal case. The leading English case is that of *Barber* v. *Penley,* [1893] 2 Ch. 447, which holds that the lessee of a theatre is liable for obstruction to access to adjacent premises by reason of a queue extending from the theatre door in front of the adjacent premises. If the natural and probable result of what the defendants are doing will be the collection of a crowd, they can be restrained, and it is no answer that they do not wish to cause a crowd or that the crowd is orderly, or that it is the duty of the police to regulate it. *Barber* v. *Penley,* supra. American cases have held the following to be a reasonable use of the highway: moving of buildings, *Graves* v. *Shattuck,* 35 N. H. 257, 69 Am. Dec. 536; receiving or delivering goods from the store or warehouse, *People* v. *Cunningham,* 1 Denio (N. Y.) 524; temporarily depositing goods, fuel, and building materials, *Piolett* v. *Summers,* 106 Pa. St. 95. But a systematic and continued encroachment upon a highway although for the purpose of carrying on a lawful business is unjustifiable. *Busse* v. *Rogers,* 120 Wis. 443; *Callanan et al.* v. *Gilman,* 107 N. Y. 360.

INHERITANCE TAX—LIABILITY OF REMAINDERS TO INHERITANCE TAX.—The owner of bonds deposited them prior to the passage of the INHERITANCE TAX LAW, (§ 366, ch. 120, of the statutes of Illinois), under a trust agreement that the trustees should collect and pay the income thereof to him for life, at his death to pay the income to A for life, and upon her death to pay over the whole to B and C, *Held* that B and C took a vested remainder which was not subject to a tax and that A took a contingent remainder which was liable for the tax. (CARTWRIGHT, C. J., and DUNNE, J., *dissenting.*) *People* v. *Carpenter* (Ill. 1914), 106 N. E. 302.

The prevailing opinion as to the liability of A's interest is based on the theory that A takes a contingent estate which does not vest until after the death of the testator, and hence falls into that class of property designated in the statute as "Intended to take effect in possession or enjoyment at or after such death." In the opinion it is held that if there is a vested interest the property is not subject to the tax. The position taken by the majority of the court, that A takes a contingent remainder, seems to conflict with the

weight of authority, (*Bank of New York* v. *Ballard's Assignees,* 83 Ky. 481; *Lyons* v. *Weeks,* 29 Misc. (N. Y.) 714; *Allen* v. *Mayfield,* 20 Ind. 293; *Moore* v. *Little,* 41 N. Y. 72; *Hawley* v. *Jones,* 5 Paige 466; *Hoover* v. *Hoover,* 116 Ind. 498; *Kennard* v. *Kennard,* 63 N. H. 303; *Poor's Lessees* v. *Considine,* 6 Wall. 458; FEARNE, REMAINDERS, 215, 4 KENT, COMMENTARIES, 203, TIFFANY, REAL PROPERTY, § 120), and is contrary to their own prior decisions, *Smith* v. *West,* 103 Ill. 332; *Lehndorf* v. *Cope,* 122 Ill. 317; *Welliver* v. *Jones,* 166 Ill. 80; KALES, FUTURE INTERESTS, § 94. In the principal case the reasoning is that if C should die before the donor then no interest would ever come to her, but in this they fail to distinguish the vesting of the estate from the vesting of the enjoyment. The uncertainty of the enjoyment does not affect the vesting of the estate, *Poor's Lessees* v. *Considine,* supra; *Lehndorf* v. *Cope,* supra; *Weekawken Ferry Co.* v. *Cissom,* 17 N. J. Eq. 475; *Leighton* v. *Leighton,* 58 Me. 63; *Amos* v. *Amos,* 117 Ind. 18; *Downing* v. *Birney,* 117 Mich. 675; *Schuyler* v. *Hanna,* 31 Neb. 307. The test is whether there is an ascertained person capable of taking at the time of the donation, and the certainty of the event, on which the enjoyment depends, happening, regardless of whether the event happens within the lifetime of the one having the estate, *Chapin* v. *Crow,* 147 Ill. 219; *Gingerich* v. *Gingerich,* 146 Ind. 227; *Watson* v. *Caessey,* 79 Me. 381; *Chewing* v. *Shumate,* 106 Ga. 751; *Kennard* v. *Kennard,* supra, *Poor's Lessees* v. *Considine,* supra, *Hoover* v. *Hoover,* supra, *Moore* v. *Little,* supra, GRAY, PERPETUITIES, § 102; KALES, FUTURE INTERESTS, § 94. This gift to A clearly falls within the test and should not be liable to the tax, as the estate vested before the passage of the statute.

LANDLORD AND TENANT—ESTOPPEL.—In a suit by a landlord to recover possession against his tenant, *Held,* the latter is estopped to deny title in the landlord because of an alleged tax title which matured in another prior to the accrual of the landlord's title. (OSTRANDER and BIRD, JJ., dissenting.) *Balch et al.* v. *Radford* (Mich. 1914), 148 N. W. 707.

The weight of legal opinion is clearly with the majority view. The tenant is estopped from denying title in the landlord at the time of the creation of the tenancy. *Vancleave* v. *Wilson,* 73 Ala. 387; *Pearce* v. *Pearce,* 83 Ill. App. 77; *Morgan City* v. *Dalton,* 112 La. 9, 36 So. 208; *Gage* v. *Campbell,* 131 Mass. 566; *Hawes* v. *Shaw,* 100 Mass. 187; *Tilyou* v. *Reynolds,* 108 N. Y. 558, 15 N. E. 534; *Agar* v. *Young,* 41 E. C. L. 49. The opinion of the minority is founded on an erroneous interpretation of *Jenkinson* v. *Winans,* 109 Mich. 524, 67 N. W. 549, which declares that the tenant may deny the landlord's title in favor of a paramouncy acquired after the inception of the relationship of landlord and tenant.

LANDLORD AND TENANT—WHAT CONSTITUTES REPAIRS.—Where a tenant holds under a lease containing a covenant by the lessor to keep the property in repair, and the cellar becomes filled with water and debris because of flood, *held,* this does not constitute any defect or lack of repair in the building. *Woodbury Co.* v. *Williams Tackaberry Co.* (Iowa, 1914), 148 N. W. 639.